

24 JUN 1977

OGC 77-4156

COMPT 77-1057

MEMORANDUM FOR: Director of Central Intelligence
VIA : Deputy Director for Administration
FROM : F. W. M. Janney
Director of Personnel
SUBJECT : Executive Order Proposing Conforming
Amendments to CIARDS under Authority
of Public Law 94-522

DD/A Registry
77-3845

Executive Registry
77-8220

1. Action Requested: That you propose that an Executive Order be issued by the President to conform certain portions of the CIA Retirement and Disability System (CIARDS) to substantially identical provisions in the Civil Service Retirement System.

2. Background: Basic retirement benefits for Federal employees generally are legislated first into the Civil Service Retirement System. Other Federal retirement systems, desirous of obtaining similar benefits, had to propose legislation in order to obtain similar benefits. CIARDS was amended six times to secure benefits previously enacted for the Civil Service System.

The last amendment to CIARDS, in October 1976, provided that in the future CIARDS could be conformed to the Civil Service System by Executive Order rather than by the protracted legislative process. The Executive Order may be used only to include in CIARDS new changes to provisions in the Civil Service System for which there are substantially identical provisions in CIARDS.

We now recommend the adoption, by Executive Order, of three items already enacted into the Civil Service System: (1) provision for the allotment or assignment of payments from annuities; (2) establishment of time limitations in applying for retirement benefits; and (3) requirement for the deposit to the CIA Retirement Fund the amount that is withheld from the salary of a CIARDS annuitant whose annuity continues during re-employment.

3. Staff Position: The Office of Personnel and the Office of Finance agree completely in the need to include the three items, specified above, in CIARDS. The Office of General Counsel

and the Office of Legislative Counsel have participated in the drafting of a proposed Executive Order designed to secure those items for CIARDS.

4. Recommendation: That you sign the attached letter to Mr. Bert Lance, Director, Office of Management and Budget, to forward the proposal for an Executive Order to conform CIARDS as described.

/s/ F.W.M. Janney


F. W. M. Janney

Attachments

STATINTL

CONCUR:


STATINTL


Office of Legislative Counsel

23 JUN 1977


Date

STATINTL


Office of General Counsel

6/30/77

Date


Office of the Comptroller

1 JUL 1977

Date

/s/ Michael J. Malanick

5 JUL 1977

A Deputy Director for Administration

Date

APPROVED:

/s/ Stansfield Turner

Director of Central Intelligence

DISAPPROVED:

Director of Central Intelligence

DATE:

12 JUL 1977

Washington, D. C. 20505

13 JUL 1977

The Honorable Bert Lance, Director
Office of Management and Budget
Washington, D. C. 20503

Dear Bert:

Forwarded herewith is a proposed Executive Order which I would appreciate your processing for approval by the President. The Order would change certain sections of the CIA Retirement and Disability System (CIARDS) to conform to some recent changes in substantially identical sections of the Civil Service Retirement System. Authority to conform was granted to the President by Public Law 94-522, approved 17 October 1976. I believe the changes in the pertinent sections of the Civil Service Retirement System have merit and that this Agency should have the benefit of them for CIARDS.

To facilitate your review of our proposal, there are enclosed a summary sheet describing these provisions and a brief analysis comparing the pertinent sections of the Civil Service retirement law with the substantially identical sections in our law.

Yours,

/s/ Stansfield Turner

STANSFIELD TURNER

Enclosures

SUMMARY SHEET

The changes enacted recently in the Civil Service Retirement System can be summarized as follows:

- (1) Provision for the allotment or assignment of payments from Civil Service annuities;
- (2) The establishment of time limitations in applying for Civil Service retirement benefits; and
- (3) Requirement for agencies to deposit in the Treasury of the United States, to the credit of the Civil Service Retirement Fund, the amounts withheld from retirees' salaries whose annuities continue during re-employment.

These changes were enacted by the following Public Laws: 94-166, approved 23 December 1975; 94-183, approved 31 December 1975; and 94-397, approved 3 September 1976.

The proposed Executive Order would adopt the same provisions for the CIA Retirement and Disability System (CIARDS) and would invest CIARDS with identical authorities.

Item (1) above would permit CIARDS annuitants to allot or assign amounts from their annuities for such purposes as the Director of Central Intelligence considers appropriate. This feature provides an attractive benefit of great convenience to retirees at little cost to the Government. For this reason, it merits inclusion in the benefits available under CIARDS. It will be applied with proper control and discretion.

Item (2) would require that an application for benefits from the CIARDS Fund based on a participant's service must be received by the Director before the 115th anniversary of the participant's birth and that, notwithstanding this, after the death of a participant or annuitant, no benefit based on the service of such persons shall be paid from the Fund unless an application therefor is received by the Director within 30 years after death or other event which gives rise to title to the benefit. These time limitations are equitable and protect the Government's interest through the establishment of time frames within which claims must be presented. Additionally, a specific cut-off date permits the cessation of funding for any such outstanding obligation. As part of the Federal Government it is equally desirable that CIARDS have similar limitations.

Item (3) requires agencies under Civil Service to pay the full cost of re-employing annuitants instead of being able to get a "free ride" on the annuity portion of the annuitant's total compensation. By crediting such deposits to the Civil Service Retirement Fund, the Government is adding to the stability of the Fund itself. The same purpose is equally important with respect to the CIARDS Fund, and for this reason this authority is sought for CIARDS.

CONFORMING THE CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM TO THE CIVIL
SERVICE RETIREMENT AND DISABILITY SYSTEM

By virtue of the authority vested in me by the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 Note), as amended by section 213 of Public Law 94-522 (90 Stat. 2467), and as President of the United States of America, and having determined that it would be appropriate to maintain conformity between the Civil Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System with respect to substantially identical provisions, it is hereby ordered as follows:

Section 1. (a) I hereby extend to current and former participants in the Central Intelligence Agency Retirement and Disability System, and to their survivors, subsection (g) of section 8345 of title 5, United States Code, as enacted by Public Law 94-166 (89 Stat. 1002), and subsection (a) of section 8346, as amended, and subsection (h) of section 8345 of title 5.

(b) In order to extend to the participants in the Central Intelligence Agency Retirement and Disability System the appropriate provisions of subsection (a) of section 8344, as amended, of title 5, United States Code, sums deducted from salaries pursuant to subsection (a) of section 273 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees shall be deposited in the Treasury of the United States to the credit of the Central Intelligence Agency Retirement and Disability Fund established by that Act.

Section 2. The authority conferred on the Civil Service Commission by subsection (g) of section 8345 of title 5, United States Code, as enacted by Public Law 94-166, and any authority of the Commission based on or deriving from any provisions of law enacted by this Order, are hereby conferred on the Director of Central Intelligence for the purposes of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and this Order.

Section 3. Any references to "the fund" in any provisions of law extended by this Order, shall, for the purposes of this Order and the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, refer to the Central Intelligence Agency Retirement and Disability Fund.

Section 4. The extension above of subsection (g) of section 8345 and subsection (a) of section 8346, as amended, of title 5, United States Code, shall be effective as of December 23, 1975; the extension of subsection (h) of section 8345 of title 5 shall be effective as of December 31, 1975. The extension of certain provisions of subsection (a) of section 8344 of title 5 shall be effective as of October 1, 1976, and shall apply to annuitants serving in appointive positions on or after such date.

JIMMY CARTER

THE WHITE HOUSE,

Public Law 94-183
31 December 1975

I. Comparable Provisions in Civil Service Retirement Law and
CIA Retirement Law

Civil Service Retirement Act

Title 5 Section 8345 (b) and (c) "(b) Except as otherwise provided, the annuity of an employee or Member commences on the day after he is separated from the service, or on the day after his pay ceases and he meets the service and the age or disability requirements for title to annuity. An annuity payable from the Fund allowed after September 5, 1960, commences on the day after the occurrence of the event on which payment thereof is based.

"(c) The annuity of a retired employee or Member terminates on the day death or other terminating event provided by this subchapter occurs. The annuity of a survivor terminates on the last day of the month before death or other terminating event occurs."

CIA Retirement Act

Section 221 (i) and (j)
"(i) Except as otherwise provided, the annuity of a participant shall commence on the day after separation from the service, or on the day after salary ceases and the participant meets the service and the age or disability requirements for title thereto. The annuity of a participant under section 234 shall commence on the day after the occurrence of the event on which payment thereof is based.. An annuity otherwise payable from the fund allowed on or after date of enactment of this provision shall commence on the day after the occurrence of the event on which payment thereof is based.

"(j) An annuity payable from the fund on or after date of enactment of this provision shall terminate (1) in the case of a retired participant, on the day death or any other terminating event occurs, or (2) in the case of a survivor, on the last day of the month before death or any other terminating event occurs."

II. Change to Civil Service Retirement Law and Proposed Change
to Comparable Provisions in CIA Retirement Law

Section 8345 - Add new Subsection (h) to read as follows:

Section 221 - Add new paragraph (m) to read as follows:

- 2 -

"(h) (1) No payment shall be made from the Fund unless an application for benefits based on the service of an employee or Member is received in the Civil Service Commission before the one hundred and fifteenth anniversary of his birth.

(2) Notwithstanding paragraph (1) of this subsection, after the death of an employee, Member, or annuitant, no benefit based on his service shall be paid from the Fund unless an application therefor is received in the Civil Service Commission within 30 years after the death or other event which gives rise to title to the benefit."

"(m) (1) No payment shall be made from the fund unless an application for benefits based on the service of the participant is received by the Director before the one hundred and fifteenth anniversary of the participant's birth.

(2) Notwithstanding subparagraph (1) of this paragraph, after the death of a participant, or annuitant, no benefit based on the service of such person shall be paid from the fund unless an application therefor is received by the Director within 30 years after the death or other event which gives rise to title to the benefit."

Public Law 94-166
23 December 1975

I. Comparable Provisions in Civil Service Retirement Law and CIA Retirement Law

Civil Service Retirement Act

Title 5 Section 8346

"(a) The money mentioned by this subchapter is not assignable, either in law or equity, or subject to execution, levy, attachment, garnishment, or other legal process."

CIA Retirement Act

Section 263

"ATTACHMENT OF MONEYS"

"Sec. 263: None of the moneys mentioned in this Act shall be assignable either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process."

II. Change to Civil Service Retirement Law and Proposed Change to Comparable Provision in CIA Retirement Law

Title 5 Section 8345

Add new subsection (g)

"(g) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from his annuity for such purposes as the Civil Service Commission in its sole discretion considers appropriate."

Subsection 8346 (a) is amended to read as follows:

"(a) The money mentioned by this subchapter is not assignable, either in law or equity, except under the provisions of section 8345 (g) of this title, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws."

Section 263 is amended to read as follows:

"ASSIGNMENT AND ATTACHMENT OF MONEYS"

"Sec. 263: (a) An individual entitled to an annuity from the fund may make allotments or assignments of amounts of his annuity for such purposes as the Director in his sole discretion considers appropriate.

"(b) None of the moneys mentioned in this Act shall be assignable, either in law or equity, except under the provisions of paragraph (a) of this section, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws."

Public Law 94-397
3 September 1976

I. Comparable Provisions in Civil Service Retirement Law and CIA Retirement Law

Civil Service Retirement Act

Title 5 Section 8344
"(a) If an annuitant receiving annuity from the Fund,... becomes employed after September 30, 1956, or on July 31, 1956 was serving, in an appointive or elective position, his service on and after the date he was or is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title..."

CIA Retirement Act

Section 273
"(a) Notwithstanding any other provision of law, any annuitant who has retired under this Act and who is reemployed in the Federal Government service in any appointive position either on a part-time or full-time basis shall be entitled to receive his annuity payable under this Act, but there shall be deducted from his salary a sum equal to the annuity allocable to the period of actual employment."

II. Change to Civil Service Retirement Law and Proposed Change to Comparable Provision in CIA Retirement Law

Title 5 Section 8344 (a) was amended, inter alia, with the addition of the underlined sentence:
"(a) If an annuitant receiving annuity from the Fund, ... becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity

Section 273 to be amended by adding to the end thereof the following sentence to read as follows:
"The sum so deducted shall be deposited in the Treasury of the United States to the credit of the Central Intelligence Agency Retirement and Disability Fund, and such deposit shall apply to any annuitant serving in an appointive position on and after October 1, 1976."

allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund...."

NOTE: The provision in Public Law 94-397 to deposit deductions in the Treasury was made effective October 1, 1976, and applies to annuitants serving in appointive and elective positions on and after such date.